

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MINNESOTA**

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JAMES TYRON SMITH,

Civil No. 20-1294 (JRT/TNL)

Petitioner,

v.

**ORDER**

JEFFREY FIKES,

Respondent.

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Steven Jack Montgomery, Reg. No. 18781-030, Federal Correctional, Institution, P.O. Box 1000, Sandstone, MN 55072, *pro se* petitioner.

Ana H Voss, Andrew Tweeten, Ann Bildtsen, Assistant United States Attorneys, **UNITED STATES ATTORNEY'S OFFICE**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for respondent.

Based upon the Report and Recommendation by United States Magistrate Judge Tony N. Leung dated October 12, 2020 (Docket No. 15), along with all the files and records, and no objections to said Recommendation having been filed, **IT IS HEREBY ORDERED** that:

1. A new civil action is to be commenced with the amended pleading of petitioner James Tyrone Smith (Docket No. 13) acting as the operative pleading in that matter.

2. Smith's petition for a writ of habeas corpus (Docket No. 1) is **DISMISSED**

**WITHOUT PREJUDICE.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Date: November 25, 2020  
in Minneapolis, Minnesota

s/John R. Tunheim  
JOHN R. TUNHEIM  
Chief Judge  
United States District Court